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July 5, 2007

## VIA FEDERAL EXPRESS

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Staff Attorney, Office of Enrollment and Discipline  
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**Re: Information Regarding U.S. Application No. 10/828,547  
(and related cases)  
OED File Number C2006-91  
Supplemental Statement of Respondent's Position**

Dear Mr. Anderson:

As you are aware, we represent Mark Haynes ("Mr. Haynes") in the above-referenced matter. On February 6, 2007, we provided a Response ("Response") to your December 8, 2006, Request for Statement of Respondent's Position ("OED Request"). This supplemental statement provides you with additional information based on recent developments in this matter and reiterates our request that the Office of Enrollment and Discipline (OED) dismiss its investigation of Mr. Haynes.

As you know, OED's Request focused on the events surrounding the claim of ownership rights asserted by Mr. Haynes' client, Synopsys, and the litigation initiated against Magma in the United States District Court for the Northern District of California. In that lawsuit, Synopsys asserted that it, and not Magma, was the rightful owner of the two (2) subject patents and their corresponding patent applications. In the lawsuit, Synopsys also alleged continuing patent infringement by Magma.<sup>1</sup>

It appears that the underlying basis for the OED Request focused upon Mr. Haynes' filing of a January 28, 2005, Assignment Submission on behalf of Synopsys. The Assignment

<sup>1</sup> The disputed patents included United States Patent No. 6,453,446 ("the '446 Patent"), United States Patent No. 6,725,438 ("the '438 Patent") and the corresponding '547 Application.

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Submission included, *inter alia*, a power of attorney, giving Mr. Haynes and his firm power of attorney to record and make public their ownership claims over Magma's applications.

As you also know, the USPTO accepted Synopsys' claim of ownership in the '547 Application. During this process, however, the USPTO erroneously issued a Notice Regarding Change of Power of Attorney and displaced Magma's attorneys as attorneys of record. Instead, the USPTO replaced Mr. Haynes and his law firm as the attorneys of record (holding the Powers of Attorney ("POA")) for the '547 Application and the issued '446 and '438 Patents. .

Synopsys, through Mr. Haynes and his law firm, filed a "Petition for Suspension of Examination" ("Petition") on March 4, 2005 in the '547 Application. The Petition was dismissed on April 27, 2005 and the previous power of attorney was vacated, after the USPTO Office of Petitions recognized that the displacement of Magma's attorneys of record was the result of a clerical error on its part. Nevertheless, in conducting its investigation, OED's Request alleged that through Mr. Haynes' filing of the Petition, he attempted to "take from or acquire from Magma[,] the '547 Application without the consent or knowledge of Magma and otherwise deprive Magma of any property rights it has in the application itself." (See OED Request at ¶ 21).

We have learned that Synopsys and Magma recently settled the above-referenced litigation. The parties have entered into a settlement agreement whereby, Magma disclaimed ownership in favor of Synopsys and IBM of both the subject patents and the pending continuation applications.<sup>2</sup> Although IBM had never made a claim of ownership of these patents or applications, the court ruled that an IBM employee was a co-inventor and should be named on the applications. IBM acquires a claim of ownership through its employee. At this time, it is our understanding that Synopsys and IBM are discussing the issues surrounding co-ownership.

Mr. Haynes reasserts that he did not engage in any dishonest conduct or misrepresentations of any kind in his handling of the matter. Mr. Haynes' conduct, throughout the course of this representation of Synopsys, was both fair and ethical. As previously noted, this inquiry clearly arose out of a clerical error on the part of the USPTO.

Additionally, none of the parties involved in this matter suffered any actual prejudice as a result of the events surrounding the patent ownership dispute. As noted above, Synopsys and Magma reached a settlement agreement and the claims of ownership are no longer at issue.

We respectfully reiterate our previous request that the OED dismiss this matter at the close of your investigation. The facts, as they stand, do not warrant any further investigation by OED. Mr. Haynes, a practitioner in good standing before the USPTO for twenty-five (25) years, is exceptionally qualified to continue practicing and providing quality legal services to the intellectual property community.

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<sup>2</sup> The settlement agreement corresponds with Judge Chesney's January 31, 2007, ruling that Synopsys and IBM were co-owners of the '446 and '438 patents, as well as all continuation and foreign patent applications.

Lawrence E. Anderson, Esquire

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Please do not hesitate to contact me if you have any questions regarding this matter. Best regards.

Very truly yours,



Pamela A. Bresnahan

PAB/clg

cc: Mark Haynes, Esquire